

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MACQUARIE ENERGY LLC,

Plaintiff,

vs.

MOZART WIND LLC and BAYWA AG,

Defendants.

Civil Action No.: 1:21-cv-02435-JMF

**PROPOSED STIPULATION AND
ORDER REGARDING ATTORNEYS'
OR EXPERTS' EYES ONLY
DESIGNATION**

WHEREAS the Parties have agreed to the following supplemental terms of confidentiality, based on non-party requests for additional protections for documents implicating highly sensitive non-party confidentiality claims, and the Court having found that good cause exists for further modification of the June 30, 2021 protective order (ECF Doc. No. 27), as previously extended to cover non-parties on August 27, 2021 (ECF Doc. No. 30), pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, it is HEREBY:

ORDERED that the following additional restrictions and procedures shall apply to information and documents exchanged by the parties or non-parties in connection with the pre-trial phase of this action:

1. Counsel for any party may designate any documents or information on behalf of a non-party, in whole or in part, as FOR ATTORNEYS' OR EXPERTS' EYES ONLY if counsel reasonably determines, in good faith, that such designation is necessary to protect a non-party's extremely sensitive trade secrets or commercial information relating to pricing or profits, which, if disclosed, would result in serious competitive harm, and which harm cannot be avoided by less restrictive means. Information and documents designated by a

party as FOR ATTORNEYS' OR EXPERTS' EYES ONLY will be stamped with such designation.

2. Documents or information designated as FOR ATTORNEYS' OR EXPERTS' EYES ONLY shall not be disclosed to any person, absent further order from the Court, except:
 - a. Outside counsel for the parties;
 - b. Patricia Donnelly, in-house counsel for Macquarie;
 - c. Anthony Danti, in-house counsel for Mozart Wind LLC and BayWa AG;
 - d. Consultants or experts assisting in the prosecution or defense of the matter, to the extent deemed necessary by outside counsel;
 - e. The Court (including the mediator, or other persons having access any FOR ATTORNEYS' OR EXPERTS' EYES ONLY by virtue of his or her position with the Court).
3. Documents or information designated as FOR ATTORNEYS' OR EXPERTS' EYES ONLY are otherwise subject to the same protections as CONFIDENTIAL documents or information, as set forth in paragraphs 2 through 11 of the protective order.

Dated: December 21, 2021

Respectfully submitted,
SUSMAN GODFREY L.L.P.

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SO ORDERED.

December 21, 2021

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**(E-signed by permission by Mark H. Hatch-Miller)*

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